

JAN 05 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:21-CR-96-MR-WCM

U.S. DISTRICT COURT
W. DISTRICT OF N.C.

UNITED STATES OF AMERICA)	
)	
v.)	APPENDIX TO
)	RULE 11 ORDER
MATTHEW SIDNEY GEOUGE)	
_____)	

During a hearing on his/her proposed plea of guilty, Defendant was advised as follows:

Count One:

18 U.S.C. § 371

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

Elements¹:

1. That you agreed to commit an offense against the United States, or to defraud the United States, or any agency thereof;
2. That you participated willingly; and
3. That an overt act in furtherance of the conspiracy was performed.²

¹ See United States v. Tucker, 376 F.3d 236, 238 (4th Cir.2004) (“To prove a conspiracy under 18 U.S.C. § 371, the government must establish an agreement to commit an offense, willing participation by the defendant, and an overt act in furtherance of the conspiracy.”).

² See Ocasio v. United States, 578 U.S. 282 (2016) (“... under established case law, the

Penalty:

I am also required by law to advise you concerning the maximum and minimum penalties prescribed by law for such offense.

The maximum possible penalty is a term of imprisonment of not more than 5 years, a fine not to exceed \$250,000, a term of supervised release of not more than 3 years, and a \$100 special assessment.³

Count Two:

26 U.S.C. § 7201

Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution.

Elements⁴:

1. That a tax deficiency exists, that is, that you owe taxes to the Internal Revenue Service;
2. That an affirmative act constituting an evasion or an attempted evasion of taxes occurred; and
3. That you acted willfully.

fundamental characteristic of a conspiracy is a joint commitment to an 'endeavor which, if completed, would satisfy all of the elements of [the underlying substantive] criminal offense,' but [a]lthough conspirators must 'pursue the same criminal objective,' 'a conspirator [need] not agree to commit or facilitate each and every part of the substantive offense.'" (quoting Salinas v. United States, 522 U.S. 52, 63-65 (1997)).

³ 18 U.S.C. § 371

⁴ See Kawashima v. Holder, 565 U.S. 478, 487 (2012) ("[N]either fraud nor deceit is among the elements of a conviction under § 7201, which include: (1) willfulness; (2) the existence of a tax deficiency; and (3) an affirmative act constituting an evasion or an attempted evasion of the tax.").

Penalty:

The maximum possible penalty is a term of imprisonment of not more than 5 years, a fine not to exceed \$100,000, a term of supervised release of not more than 3 years, and a \$100 special assessment.

By signing below, Defendant and counsel acknowledge the foregoing information.



Defendant's Signature



Counsel's Signature